

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

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| Emory Alvin Michau, Jr., |) | |
| |) | Civil Action No. 6:07-2439-SB-WMC |
| Plaintiff, |) | |
| |) | <u>ORDER</u> |
| vs. |) | |
| |) | |
| J. Al Cannon, Sheriff of Charleston County, et al., |) | |
| |) | |
| Defendants. |) | |
| |) | |

This matter is before the court on the *pro se* plaintiff's motion to compel. The plaintiff, who was recently released from the Charleston County Detention Center ("CCDC"), filed this action pursuant to Title 42, United States Code, Section 1983, alleging claims of excessive force and deliberate indifference to his medical and safety needs. He also alleges claims regarding the conditions of confinement at the CCDC.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983, and submit findings and recommendations to the District Court.

The defendants filed a motion for summary judgment on February 19, 2008. By order filed February 20, 2008, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment dismissal procedure. The plaintiff filed his opposition to the motion on March 27, 2008. The defendants filed a reply brief on April 28, 2008.

On March 27, 2008, the same day he filed his opposition to the motion for summary judgment, the plaintiff filed a motion to compel. In the motion, he asks the court

“for an order enforcing discovery to correct the discrepancies noted in the accompanying memorandum and to provide supporting documentation of the claims made by Plaintiff.” Attached to the motion to compel are affidavits of the plaintiff and two family members testifying to the extent of the plaintiff’s injuries during his stay at the CCDC. The defendants oppose the motion to compel, stating that the plaintiff served them with discovery requests on March 7, 2008, and the motion to compel was filed prior to the deadline for defendants to respond to his requests. The defendants have now responded to the plaintiff’s requests.

Based upon the foregoing, the plaintiff’s motion to compel (doc. 40) is moot. However, as the plaintiff had to file his opposition to the motion for summary judgment prior to receiving responses to his discovery requests, he may file a supplement to his opposition to the motion for summary judgment on or before May 19, 2008. Further, it appears that the affidavits attached to the motion to compel should have been filed by the plaintiff as support for his opposition to the motion for summary judgment rather than as support for the motion to compel. Accordingly, the Clerk of Court is directed to docket the affidavits as attachments to the plaintiff’s response in opposition (doc. 39) to the defendants’ motion for summary judgment.

IT IS SO ORDERED.

s/William M. Catoe
United States Magistrate Judge

May 1, 2008

Greenville, South Carolina